

SEA OF OKHOTSK FISHERIES ENFORCEMENT ACT OF  
1995

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FEBRUARY 21, 1995.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. YOUNG of Alaska, from the Committee on Resources,  
submitted the following

R E P O R T

[To accompany H.R. 715]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 715) to amend the Central Bering Sea Fisheries Enforcement Act of 1992 to prohibit fishing in the Central Sea of Okhotsk by vessels and nationals of the United States, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 715 is to ensure greater conservation and management of straddling fishery stocks in the Central Sea of Okhotsk by prohibiting U.S. citizens from fishing in this area.

BACKGROUND AND NEED FOR LEGISLATION

Straddling fishery stocks are those fish stocks which travel between the 200-mile Exclusive Economic Zones (EEZs) of two or more countries or between the EEZs and international waters. The nature of these stocks results in their management under a wide variety of regulatory schemes depending on their particular geographic location. Unfortunately, conservation measures imposed by one jurisdiction may be unsuccessful when other countries do not enact similar restrictions. As a result, nations that allow short-term economic benefits to determine management practices can

cause the decline of plentiful and profitable fisheries to the detriment of all nations with an interest in the fishery.

Due to the transient nature of these stocks and their commercial importance to many different countries, straddling stocks have become an important international concern. The United Nations instituted a series of conferences beginning in July 1993, and that are still ongoing, to discuss the conservation and management of these fisheries.

One area which needs improved conservation of its straddling stock resources is the Central Sea of Okhotsk, a small enclave of international waters known as the Peanut Hole and surrounded by the EEZ of the Russian Federation. Although other countries do not have the right to fish in the Russian EEZ, fishermen may traverse it and fish in the international waters in the Central Sea of Okhotsk. Therefore, the strict conservation measures imposed by the Russian Federation within its own EEZ may not be successful due to overfishing in the Peanut Hole by fishermen from other countries.

At issue in the Central Sea of Okhotsk is a pollock stock which spawns only in the EEZ of the Russian Federation but traverses these international waters. Fishermen from China, Japan, Korea, and Poland have continued to overharvest the pollock resource leading to the extreme decline of the stock.

In 1992, the Congress enacted the Central Bering Sea Fisheries Enforcement Act of 1992 to protect the living marine resources of the Central Bering Sea (also known as the Donut Hole) which, like those of the Central Sea of Okhotsk, have rapidly declined due to overharvesting. Under the statute, U.S. fishermen who violate international fishery agreements for the Central Bering Sea are subject to penalties available in the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.). Foreign fishermen who fish within this area will lose U.S. port privileges. Unfortunately, the Central Bering Sea Fisheries Enforcement Act had unintended consequences; some fishermen who could not continue their harvests in the Central Bering Sea have moved their operations to the Central Sea of Okhotsk, necessitating additional legislation to protect the stocks in this area as well.

#### COMMITTEE ACTION

H.R. 715 was introduced by Congressman Don Young on January 26, 1995, and referred to the Committee on Resources. Within the Committee, the bill was referred to the Subcommittee on Fisheries, Wildlife and Oceans. This bill, the Sea of Okhotsk Fisheries Enforcement Act, is cosponsored by the Subcommittee Chairman Jim Saxton and the Ranking Minority Member of the Subcommittee, Gerry Studds.

On January 25, 1995, the Subcommittee on Fisheries, Wildlife and Oceans held an oversight hearing on H.R. 715. Ambassador David A. Colson, Deputy Assistant Secretary of State for Oceans, testified for the Administration. Ambassador Colson stated that "enactment of the bill would further our bilateral efforts, particularly with Russia, to protect the marine environment and to ensure sustainable fisheries in the Central Bering Sea and the Sea of

Okhotsk. The Administration strongly recommends and supports enactment of the bill.”

At the same hearing, Mr. Rolland A. Schmitt, Assistant Administrator for Fisheries, National Marine Fisheries Service (NMFS), indicated in his testimony that “NMFS fully supports amendments to the Central Bering Sea Fisheries Enforcement Act of 1992 that would prohibit vessels and nationals of the U.S. from conducting fishing operations in the Central Sea of Okhotsk, except where such fishing operations are conducted in accordance with international fishery agreements to which both the U.S. and the Russian Federation are parties. This position is consistent with past U.S. statements of support for the conservation and management of pollock stocks in the area.”

On February 1, 1995, the Subcommittee on Fisheries, Wildlife and Oceans met to consider H.R. 715. The bill was approved, without amendment and in the presence of a quorum, by voice vote and ordered reported to the Full Committee.

On February 8, 1995, the Full Committee met to consider H.R. 715. There were no amendments offered to the bill. The bill was approved by voice vote with a quorum of Members present and ordered reported to the House of Representatives.

#### SECTION-BY-SECTION ANALYSIS

Section 1 provides that the Act may be cited as the “Sea of Okhotsk Fisheries Enforcement Act of 1995”.

Paragraph (1) of Section 2 inserts the words “and the Central Sea of Okhotsk” after the “Central Bering Sea” in the Central Bering Sea Fisheries Enforcement Act of 1992. This addition prohibits U.S. fishermen from fishing in the Central Sea of Okhotsk and extends the penalties available in the Magnuson Fishery Conservation Management Act to U.S. fishermen who violate the provisions of this bill.

Paragraph (2) of Section 2 reorders the definitions listed in the Central Bering Sea Fisheries Enforcement Act to insert a definition of the Central Sea of Okhotsk.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(l)(3) of rule XI of the Rules of the House of Representatives and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in the body of this report.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 715 will have no significant inflationary impact on prices and costs in the operation of the national economy.

#### COST OF THE LEGISLATION

Clause 7 of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 715. However,

clause 7(d) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

#### COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirements of clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Subcommittee on Fisheries, Wildlife and Oceans held hearings on January 25, 1995, on the Sea of Okhotsk Fisheries Enforcement Act and the oversight findings and recommendations of the Committee are reflected in this report.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 715.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 715 from the Director of the Congressional Budget Office.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, February 15, 1995.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 715, the Sea of Okhotsk Fisheries Enforcement Act of 1995, as ordered reported by the House Committee on Resources on February 8, 1995. Because enactment of H.R. 715 could affect direct spending and receipts, pay-as-you-go procedures would apply; however, CBO estimates that any change in direct spending and receipts would be negligible.

The bill would prohibit fishing in the Central Sea of Okhotsk by United States vessels and nationals (United States citizens fishing under the flag of another country) of the and would make penalties created by the Magnuson Fishery Conservation and Management Act applicable to U.S. fishers who violate the provisions of H.R. 715. The Magnuson Act imposes both civil and criminal penalties on violators; however, it is unlikely that many fines would be collected under H.R. 715. Any civil and criminal fines levied under H.R. 715 would increase receipts to the federal government. Criminal fines would be deposited in the Crime Victims Fund and would be spent in the following year. CBO does not expect this additional revenue or direct spending to be significant.

H.R. 715 would result in no cost to state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Rachel Robertson.

Sincerely,

ROBERT D. REISCHAUER, *Director*.

#### DEPARTMENTAL REPORTS

The Committee has received no departmental reports on H.R. 715.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### **CENTRAL BERING SEA FISHERIES ENFORCEMENT ACT OF 1992**

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#### **SEC. 302. PROHIBITION APPLICABLE TO UNITED STATES VESSELS AND NATIONALS.**

(a) PROHIBITION.—Vessels and nationals of the United States are prohibited from conducting fishing operations in the Central Bering Sea and the Central Sea of Okhotsk, except where such fishing operations are conducted in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(b) CIVIL PENALTIES AND PERMIT SANCTIONS.—A violation of this section shall be subject to civil penalties and permit sanctions under section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

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#### **SEC. 306. DEFINITIONS.**

In this title, the following definitions apply:

(1) CENTRAL BERING SEA.—The term “Central Bering Sea” means the central Bering Sea area which is more than two hundred nautical miles seaward of the baselines from which the breadth of the territorial seas of the United States and the Russian Federation are measured.

(2) CENTRAL SEA OF OKHOTSK.—The term “Central Sea of Okhotsk” means the central Sea of Okhotsk area which is more than two hundred nautical miles seaward of the baseline from which the breadth of the territorial sea of the Russian Federation is measured.

[(2)] (3) FISHING VESSEL.—The term “fishing vessel” means any vessel which is used for—

(A) catching, taking, or harvesting fish; or

(B) aiding or assisting one or more vessels at sea in the performance of fishing operations, including preparation, supply, storage, refrigeration, transportation, or processing.

**[(3)] (4) OWNS OR CONTROLS.**—When used in reference to a vessel or processing facility—

(A) the term “owns” means holding legal title to the vessel or processing facility; and

(B) the term “controls” includes an absolute right to direct the business of the person owning the vessel or processing facility, to limit the actions of or replace the chief executive officer (by whatever title), a majority of the board of directors, or any general partner (as applicable) of such person, to direct the transfer or operations of the vessel or processing facility, or otherwise to exercise authority over the business of such person, but the term does not include the right simply to participate in those activities of such person or the right to receive a financial return, such as interest or the equivalent of interest, on a loan or other financing obligation.

**[(4)] (5) PERMITTED FISHING VESSEL.**—The term “permitted fishing vessel” means any fishing vessel that is subject to a permit issued by the Secretary of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

**[(5)] (6) PERSON.**—The term “person” means any individual (whether or not a citizen of the United States), any corporation, partnership, association, cooperative, or other entity (whether or not organized under the laws of any State), and any State, local, or foreign government, or any entity of such government or the Federal Government.

**[(6)] (7) PROCESSING FACILITY.**—The term “processing facility” means any fish processing establishment or fish processing vessel that receives unprocessed fish.

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